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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,824	08/31/2006	Richard P. Phipps	176/61654(1247)	9061

26774 7590 01/24/2008
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EXAMINER	
JAVANMARD, SAHAR	

ART UNIT	PAPER NUMBER
1617	

MAIL DATE	DELIVERY MODE
01/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/576,824	PHIPPS ET AL.	
	Examiner	Art Unit	
	SAHAR JAVANMARD	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 April 2006*.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *17-65* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *17-65* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/ are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

I. Group I, claim(s) 17-26, are drawn to a method of inhibiting thrombosis, the method comprising: contacting mammalian platelets with an effective amount of PPAR γ, a PPAR γ agonist, an RXR agonist, or a combination thereof, whereby said contacting inhibits formation of a thrombosis by the mammalian platelets.

II. Group II, claim(s) 27-37, are drawn to a method of treating or preventing a thrombotic condition or disorder, the method comprising: contacting mammalian platelets, in an individual exhibiting symptoms of or predisposed to a thrombotic condition or disorder, with an effective amount of PPAR γ, a PPAR γ agonist, an RXR agonist, or a combination thereof, whereby said administering inhibits platelet activation to treat or prevent the thrombotic condition or disorder.

III. Group III, claim(s) 38-49, are drawn to a method of improving the quality of a blood product, the method comprising: providing PPAR γ, a PPAR γ agonist, an RXR agonist, an inducer of a PPAR γ agonist, or a combination thereof; and

introducing PPAR γ, the PPAR γ agonist, the RXR agonist, the inducer of a PPAR γ agonist, or the combination thereof, to a blood product, wherein the PPAR γ agonist, the RXR agonist, the inducer of a PPAR), agonist, or the combination thereof inhibits clotting or activation of platelets in the blood product and thereby improves the quality thereof.

IV. Group IV, claim(s) 50-55, are drawn to a stored blood product comprising: a blood product that contains platelets and an amount of PPAR γ, a PPAR γ agonist, an RXR agonist, an inducer of a PPAR γ agonist, or a combination thereof that is effective to inhibit platelet activation.

V. Group V, claim(s) 56-65, are drawn to a method of inhibiting platelet aggregation comprising: contacting mammalian platelets with an effective amount of PPAR γ, a PPAR γ agonist, an RXR agonist, or a combination thereof, whereby said contacting inhibits aggregation of the mammalian platelets.

The inventions listed as Groups I - VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features.

In this case, Sahoo (US Patent No. 6,399,640 B1) discloses compounds which are potent agonists of various peroxisome proliferator activator receptor subtypes, particularly PPAR α and/or PPAR γ. The compounds taught by Sahoo may be selective agonists of one receptor subtype, e.g. PPAR γ agonists, or they may be

agonists of more than one receptor subtypes, e.g. dual PPAR α/γ agonists. Said compounds of the present invention are useful in treating, controlling or preventing diseases, disorders or conditions, where the treatment is mediated by the activation of an individual PPAR subtype (α or γ), or a combination of PPAR subtypes (e.g. α/γ).

As a result, no special technical features exist among the different groups because the inventions in Groups I-V fail to make a contribution over the prior art with respect to novelty and inventive step. In conclusion, there is a lack of unity of invention, and therefore restriction for examination purposes is proper.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

If applicant elects any one of groups I-V, the applicant is further required to elect a species as shown below:

1) PPAR γ agonist (as listed in claim 21)

2) RXR agonist (as listed in claim 22)

Furthermore, if applicant elects group II, the applicant is also further required to elect a thrombic condition or disease (as listed in claim 37).

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Claims 17, 27, 38, 50, and 56 are generic.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder**. Further, note that the prohibition against double

patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR JAVANMARD whose telephone number is (571) 270-3280. The examiner can normally be reached on 8 AM-5 PM MON-FRI (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SJ

SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER